

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

VICTORIA BUTLER,

Appellant,

v.

UNIVERSITY OF WASHINGTON,

Respondent.

) Case No. SUSP-01-0011

)
) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** Pursuant to RCW 41.64.060 and WAC 358-01-040, this appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair. The hearing was held at the University of Washington, South Campus Center, Seattle, Washington, on August 22, 2001. GERALD L. MORGEN, Vice Chair, reviewed the record, including the file, exhibits, and the recorded proceedings, and participated in the decision in this matter. LEANA D. LAMB, Member, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Victoria Butler did not appear and no representative appeared on her behalf. Jeffrey W. Davis, Assistant Attorney General, represented Respondent University of Washington.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of a two-day suspension for neglect of duty and insubordination. Respondent alleges that Appellant failed to sustain a high

1 quality of work, failed to work effectively with coworkers and failed to consistently be at work
2 assignments for regularly scheduled shifts.

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4 1.4 **Citations Discussed.** WAC 358-30-170; WAC 251-12-240(1); Baker v. Dep't of
5 Corrections, PAB No. D82-084 (1983); McCurdy v. Dep't of Social & Health Services, PAB No.
6 D86-119 (1987); Countryman v. Dep't of Social & Health Services, PAB No. D94-025 (1995);
7 Aquino v. University of Washington, PAB No. D93-163 (1995).

8 9 **II. FINDINGS OF FACT**

10 2.1 Appellant Victoria Butler is a Library Technician III and permanent employee for
11 Respondent University of Washington. Appellant and Respondent are subject to Chapters 41.06
12 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a
13 timely appeal with the Personnel Appeals Board on April 17, 2001.

14
15 2.2 By letter dated March 23, 2001, Lizabeth A. Wilson, Director of University Libraries,
16 informed Appellant of her two-day suspension effective April 3, 2001. The reasons for
17 recommending Appellant's two-day suspension were outlined to Ms. Wilson in a Memorandum
18 dated March 5, 2001 from Mary Van Court, Reserves Supervisor. Ms. Van Court alleged that
19 Appellant neglected her duty and was insubordinate. Ms. Van Court specifically alleged that
20 Appellant failed to 1) be accountable for her actions, 2) sustain a high quality of work, 3) prioritize
21 work and meet deadlines, 4) work effectively with coworkers and library users, and 5) failed to
22 consistently be at work assignments for regularly scheduled shifts.

23
24 2.3 Appellant became employed with the University of Washington in October 1987. As a
25 Library Technician III, Appellant is responsible for processing course reserve materials such as
26 journal articles, excerpts from books, slides, and videotapes. Because of the high degree of

1 interpersonal contact with students, faculty and professors, Appellant is expected to provide
2 customer service to library users and to work cooperatively with other library staff to ensure that
3 reserves materials are promptly processed and accessible.

4
5 2.4 In Spring 2000, Appellant's supervisor, Mary Van Court, became aware of a number of
6 deficiencies and issues regarding Appellant's work performance and behavior. Ms. Van Court
7 began to receive complaints about Appellant's interactions with coworkers. Students and faculty
8 members began to complain that materials that professors asked to be put on reserve were not
9 available when needed by students. In addition, Ms. Van Court noted significant tension in
10 Appellant's work unit because of Appellant's negative attitude and unfriendly behavior toward
11 coworkers.

12
13 2.5 In an attempt to redirect Appellant's behavior, Ms. Van Court verbally counseled Appellant
14 on 13 occasions between March 23, 2000 and October 26, 2000. Ms. Van Court addressed her
15 concerns with Appellant's communication and interactions with others and her productivity and
16 quality of work. On March 27, 2000, Ms. Van Court issued to Appellant a written action plan
17 which addressed these issues and specifically directed Appellant to maintain a high quality level of
18 work and to communicate effectively with coworkers and to treat them with courtesy and respect.
19 On April 28, May 9, 23, June 22, 30, and September 26, 2000, Ms. Van Court met with Appellant
20 to discuss communication issues, productivity and quality of work.

21
22 2.6 On October 12, 2000, Ms. Van Court issued to Appellant a letter of reprimand for shouting
23 at her and at another coworker during a meeting. Ms. Van Court reminded Appellant that her
24 behavior was unacceptable and inappropriate and would not be tolerated. Ms. Van Court directed
25 Appellant to improve her quality/quantity of work and to improve her interpersonal skills.

1 2.7 On February 2, 2001, Ms. Van Court issued to Appellant a counseling memo regarding
2 concerns with Appellant's poor communications with a coworker and for making negative
3 comments about the coworker to a library user. Ms. Van Court directed Appellant to respond to
4 work requests in a timely manner; to respond appropriately to questions and refrain from making
5 negative comments; and to treat coworkers with respect.

6
7 2.8 On February 6, 2001, Ms. Van Court issued to Appellant a counseling memo for her rude
8 behavior during an interviews with job candidates.

9
10 2.9 On February 13, 2001, Ms. Van Court issued to Appellant a letter of reprimand regarding
11 her deficient work performance, her disrespectful attitude toward coworkers and her late arrival to
12 work. In the memo, Ms. Van Court outlined work performance expectations and directed Appellant
13 to inform her of any instances when she received more requests than she could complete in a single
14 day. Ms. Van Court emphasized the library's goal to provide library users with 24 hour turnaround
15 time of reserve requests.

16
17 2.10 Despite repeated guidance and counseling, Appellant failed to improve her performance and
18 meet work expectations. Respondent has proven that Appellant engaged in the following
19 misconduct:

20
21 2.11 *Incident #1.* On February 20, 2001, Appellant received a telephone call for Gail Kouame,
22 an employee who was temporarily sharing the Reserves section telephone with Appellant. When
23 Appellant answered the call, she stated to the caller that Ms. Kouame was not in the area and she
24 refused to take a message for Ms. Kouame. Appellant's refusal to take a message was in violation
25 of the February 13, 2001 letter of reprimand which directed her to work cooperatively with others
26

1 and to communicate with them in a courteous manner. Appellant's uncooperative behavior created
2 a negative work environment for her coworkers.

3
4 2.12 *Incident #2.* On February 20, 2001, coworker Mary Rainwater, who was working at the
5 information desk, asked Appellant for assistance with a reserves question. Appellant listened to the
6 request from a faculty member that he be allowed to check out "library use only" reserve material
7 for a class. Although making the policy exception was within Appellant's discretion, Appellant
8 instead referred the question to Ms. Van Court which delayed service to the library user.

9
10 2.13 *Incident #3.* On February 20, 2001, Appellant failed to process a backlog of reserves
11 requests. When she left at the end of her shift, she failed to inform Ms. Van Court of the backlog of
12 high demand materials. As a result, students complained because materials they needed for
13 homework were not available. Appellant's failure to inform Ms. Van Court of the backlog was
14 contrary to the instructions given to her in the February 13, 2001 letter of reprimand.

15
16 2.14 *Incident #4.* Appellant was responsible for reporting her absences to Administrative
17 Services. By memo dated January 31, 2001, Appellant was reminded of this standard reporting
18 practice. On February 21 and 22, Appellant called in sick. However, Appellant reported her
19 absence to information desk staff despite being aware of her responsibility to report her absences to
20 administrative staff.

21 22 **III. ARGUMENTS OF THE PARTIES**

23 3.1 Respondent argues that the department went to great lengths to counsel a long-term
24 employee with no success for its efforts. Respondent asserts that Appellant chose to ignore her
25 supervisor's instructions despite repeated counseling sessions and despite explicit instructions
26 regarding work place expectations. Respondent argues that Appellant's failure to work effectively

1 with coworkers, her failure to request sick leave properly, and her failure to sustain a high quality of
2 work had a negative impact on other employees and warrants formal disciplinary action.
3 Respondent argues that a two-day suspension was the appropriate sanction.

4
5 3.2 Appellant did not provide a defense to the allegations.

6 7 IV. CONCLUSIONS OF LAW

8 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
9 herein.

10
11 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting
12 the charges upon which the action was initiated by proving by a preponderance of the credible
13 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the
14 sanction was appropriate under the facts and circumstances. WAC 358-30-170; WAC 251-12-
15 240(1); Baker v. Dep't of Corrections, PAB No. D82-084 (1983).

16
17 4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her
18 employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't
19 of Social & Health Services, PAB No. D86-119 (1987).

20
21 4.4 Insubordination is the refusal to comply with a lawful order or directive given by a superior
22 and is defined as not submitting to authority, willful disrespect, or disobedience. Countryman v.
23 Dep't of Social & Health Services, PAB No. D94-025 (1995).

24
25 4.5 Although it is not appropriate to initiate discipline based on prior formal and informal
26 disciplinary actions, including letters of reprimand, it is appropriate to consider them regarding the

1 level of the sanction which should be imposed here. Aquino v. University of Washington, PAB No.
2 D93-163 (1995).

3
4 4.6 Respondent has met its burden of proving by a preponderance of the evidence that Appellant
5 failed to sustain a standard of high quality of work, failed to work effectively with coworkers, failed
6 to follow supervisory directives and failed to follow the necessary steps to report her absences in a
7 manner consistent established practices. Respondent provided extensive evidence of its repeated
8 attempts to assist Appellant improve her performance and relationships with coworkers. However,
9 Appellant continued to display a pattern of inappropriate behavior which had a negative impact on
10 the workplace. Under the facts and circumstances presented, Respondent has proven that Appellant
11 was insubordinate and neglected her duty and that a two-day suspension is the appropriate sanction.
12 Therefore, the appeal should be denied.

13
14 **V. ORDER**

15 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Victoria Butler is denied.

16
17 DATED this _____ day of _____, 2001.

18
19 WASHINGTON STATE PERSONNEL APPEALS BOARD

20
21 _____
22 Walter T. Hubbard, Chair

23
24 _____
25 Gerald L. Morgen, Vice Chair